IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO. 27 OF 2001.

Business India publications Ltd.
and Ors. **Petitioners.**

Vs.

The Central Provident Fund
Commissioner & Ors. **Respondents.**

J.P. Cama a/w Amin Kherda for the petitioners.

M.S. Karnik for the respondents.

CORAM : S.U. KAMDAR, J.

DATE : MARCH 28 2006.

P.C.

. Apart from the point of law, raised by the petitioners in the present petition about the applicability of provisions of The Employees Provident Fund Act to the establishment belonging to the petitioners, the learned counsel for the petitioners has also contended that the impugned order has been passed without giving any hearing and there is breach of principles of natural justice. The learned counsel further contends that the matter was sought to be adjourned on certain grounds but the Officer has not given adjournment and has proceeded and passed the impugned order. From the perusal of the order also, it seems that the order has been passed in breach of principles of natural justice. Because the order does not

even give details and break up of the computation of the claim of damages and liability of penalty. Furthermore, though admittedly, application is filed on 24-10-83 for the first time, to be covered under the provision of Employees Provident Funds Act without giving any break up the impugned order directs the penalty to be imposed from the year 1981. The order does not contain details which ought to have been contained in the present order namely the period, the amount of default, penalty leviable and interest charged and damages thereon.

. In view of the aforesaid, the impugned order is required to be set aside. Accordingly the impugned order dated 30-8-2000 is quashed and set aside with the direction that the matter is remanded back to The Regional Provident Fund Commissioner, Bombay for determination afresh. The Regional Provident Fund Commissioner to give hearing to the petitioners after giving notice. The petitioners will not apply for any adjournment in the matter any further and file written submissions, if any. After giving hearing The Regional Provident Fund Commissioner will pass afresh order. If it is found that the petitioners are covered by the provisions of the

Act then the respondents will give details about computation of levy of penalty and damages alongwith interest thereon. The said break up will also be company-wise as well as the period-wise.

. The learned counsel for the petitioners states, in the mean time, they will deposit in this Court a sum of Rs.90,00,000/-. The sum of Rs.45,00,000/- shall be deposited within two weeks from today and the balance amount of Rs.45,00,000/- will be deposited in further period of eight weeks therefrom and after depositing the amount, the petitioners will intimate such deposit to the Provident Fund Commissioner and only if amount is deposited, the Regional Provident Fund Commissioner will thereafter give hearing to the petitioners as directed hereinabove.

. The Regional Provident Commissioner is directed to dispose of the matter pursuant to the remand order on or before 31st August,2006. In an event, amount of Rs.90,00,000/-is deposited, the bank guarantee given by the petitioner will stand discharged. If amount is not deposited, then the bank guarantee will continue and petition will stand

dimissed. The respondents thereafter will be entitled to encashment of the said Bank Guarantee. It is made clear that all orders which are passed consequent upon the impugned order which has been set aside by this order, stands set aside and quashed and matter will be heard afresh in accordance with law.